

Message Text

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PAGE 01 STATE 071840

13

ORIGIN EB-11

INFO OCT-01 EA-11 ISO-00 COME-00 TRSE-00 JUSE-00 L-03

RSC-01 /027 R

DRAFTED BY EB/CBA/BP:GRPOWERS/RJBUSHNELL:JS

APPROVED BY EB/CBA/BP:HJWINTER

EA/J:THUBBARD

L/EB:MSPIEGEL (DRAFT)

COMMER:CJOHNSON (INFO)

JUSTICE:JDAVIDOW (DRAFT)

----- 025270

R 092155Z APR 74

FM SECSTATE WASHDC

TO AMEMBASSY TOKYO

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E.O. 11652: N/A

TAGS: ETRD, US, JA

SUBJECT: ANTITRUST INVESTIGATION: GRAPHITE ELECTRODES

REF: (A) TOKYO 4314; (B) A-9930

1. DEPARTMENT AWARE OF JAPANESE GOVERNMENT CONCERN ABOUT GRAPHITE ELECTRODE ANTITRUST INVESTIGATION. JAPANESE EMBASSY COMMERCIAL COUNSELOR KINOSHITA CALLED AT DEPARTMENT MARCH 28 TO DISCUSS THE INVESTIGATION AND SUBSEQUENTLY CAME IN WITH COMMERCIAL MINISTER HARADA TO APRIL 8 MEETING IN DEPARTMENT WITH JUSTICE OFFICIALS.

2. JAPANESE EMBASSY OFFICIALS PARTICULARLY INTERESTED IN SPECIFIC ACTIONS BEING INVESTIGATED AND ANTITRUST PROVISIONS UNDER WHICH JUSTICE IS PROCEEDING. JUSTICE OFFICIALS EXPLAINED THAT INVESTIGATION IS IN PRELIMINARY STAGE AND THEY NOT CERTAIN OF EXTENT OF ANY RESTRICTIVE PRACTICES OR IF AND HOW US ANTITRUST LAWS MIGHT BE APPLIED. THIS DETERMINATION WILL DEPEND TO CONSIDERABLE EXTENT ON MATERIAL TO LIMITED OFFICIAL USE

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PAGE 02 STATE 071840

BE SUPPLIED BY THE US FIRMS INVOLVED.

3. THE PRELIMINARY INVESTIGATION WAS INITIATED IN RESPONSE TO COMPLAINTS FROM US PRIVATE SECTOR THAT JUSTICE DEPARTMENT PERMITTING U.S. SUBSIDIARIES OF JAPANESE GRAPHITE ELECTRODE INDUSTRY TO ENGAGE IN ILLEGAL RESTRICTIVE PRACTICES (SUCH AS CUSTOMER ALLOCATION) IN U.S. MARKET NOT

PERMITTED DOMESTIC FIRMS. THE INVESTIGATION WAS IN FORM OF LETTERS TO FIRMS INCORPORATED IN THE UNITED STATES, REQUESTING INFORMATION ON ACTIVITIES WITHIN REPEAT WITHIN THE U.S.

4. DESPITE FACT THAT LETTERS WERE SENT ONLY TO U.S. ADDRESSEES, JUSTICE WAS AWARE THAT ITS INQUIRIES WOULD AFFECT JAPANESE TRADE AND THAT GOJ INVOLVEMENT WOULD AFFECT THE INVESTIGATION. THEREFORE, EMBASSY WAS REQUESTED (REF B) TO NOTIFY GOJ INFORMALLY OF THE INVESTIGATION AND TO SECURE INFORMATION ON GOJ INVOLVEMENT. EMBASSY MAY ASSURE GOJ OF USG WILLINGNESS TO CONSIDER JAPANESE VIEWS ON THIS MATTER, AND THAT USG WILL NOTIFY AND CONSULT WITH GOJ IN ADVANCE OF ANY FINAL ACTION BY JUSTICE.

5. IN VIEW PRELIMINARY STAGE OF INVESTIGATION AND CURRENT JAPANESE EMBASSY DISCUSSIONS WITH STATE AND JUSTICE, IT APPEARS THE PROBLEM IS ALREADY RECEIVING APPROPRIATE "GOVERNMENT-TO-GOVERNMENT" CONSIDERATION. UNTIL US FIRMS RESPOND TO THE REQUESTS FOR INFORMATION (JUSTICE CONFIRMS MID-APRIL DEADLINE), THERE WILL BE LITTLE THAT GOJ OR DEPARTMENT CAN DO BECAUSE OF LACK OF PERTINENT FACTUAL INFORMATION.

6. JAPANESE EMBASSY OFFICERS APPEARED SATISFIED WITH JUSTICE EXPLANATIONS CONCERNING THE INVESTIGATION AND ITS FOCUS ON US DOMESTIC MARKET. USG OFFER TO NOTIFY AND CONSULT WITH GOJ IN ADVANCE OF ANY FINAL JUSTICE ACTION WAS ALSO CLEARLY APPRECIATED.

7. DEPARTMENT POUCHING MEMCONS OF MEETINGS AND WILL INFORM EMBASSY OF ANY SIGNIFICANT DEVELOPMENTS.

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PAGE 03 STATE 071840

8. FOR EMBASSY'S INFO ONLY: JUSTICE PROCEDURES WILL NOT PERMIT DIVULGENCE TO GOJ, BUT RELIABLE INFORMANTS CONNECTED WITH THE INDUSTRY HAVE ADMITTED TO JUSTICE THAT CUSTOMER ALLOCATION PRACTICES AND OTHER ILLEGAL RESTRAINTS WERE WIDESPREAD AMONG THE U.S. -INCORPORATED SUBSIDIARIES OR AGENTS OF JAPAN ELECTRODE EXPORT PROMOTION CO. (JEEP) MEMBER FIRMS. AT LEAST ONE SUCH FIRM HAS INDICATED ITS WILLINGNESS TO DISCONTINUE THE PRACTICES IF JUSTICE

DECIDES TO TAKE FORMAL ACTION. JUSTICE DOES NOT BELIEVE
THAT ANY EARLIER USG URGING ON GOJ OF JEEP-TYPE EXPORT
LIMITING ACTIONS WOULD HAVE CONTEMPLATED OR APPROVED THE
TYPE OF RESTRAINTS IN THE U.S. MARKET WHICH APPARENTLY
HAVE OCCURRED. END FYI KISSINGER

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Message Attributes

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